

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julie Edmonds-Mares
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: October 15, 2013

Approved

Date

10/23/13

COUNCIL DISTRICT: 4

**SUBJECT: PARTNERSHIP WITH SANTA CLARA UNIFIED SCHOOL DISTRICT TO
SUBMIT THE RESPONSE TO AGNEWS EAST PROPERTY PURCHASE
RFP FROM THE STATE OF CALIFORNIA DEPARTMENT OF GENERAL
SERVICES AND THE ADOPTION OF APPROPRIATION ORDINANCE
AMENDMENTS IN THE SUBDIVISION PARK TRUST FUND**

RECOMMENDATION

Adopt a resolution that:

- (a) Approves the partnership with Santa Clara Unified School District ("SCUSD") to submit a response to the State of California's Request For Proposals ("RFP") for a joint purchase of 81 acres of land located at 3500 Zanker Road, Santa Clara County Assessor parcel numbers 097-04-028 and 097-04-040;
- (b) Authorizes the City Manager or designee to execute the purchase agreement and all other documents needed to conclude the transaction with the State of California if this joint proposal is selected by the State;
- (c) Authorizes the City Manager or designee to commence discussions with SCUSD staff regarding the potential joint use of the Agnews property in the event that the joint proposal is selected by the State; and
- (d) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
 - (1) Decrease the Future PDO / PIO Projects Reserve by \$150,000; and
 - (2) Establish the Agnews Property Preliminary Studies appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$150,000.

OUTCOME

1. Approval of the partnership with SCUSD will allow a joint RFP response to the State of California Department of General Services ("State").
2. If the proposal is selected by the State, the City of San José will purchase 22-27 acres of the former Agnews Developmental Center property ("Agnews Property") for community park development and will commence discussions with SCUSD staff regarding the potential joint use of the Agnews Property. The purchase of this property is in alignment with the City's General Plan and the North San José Area Development Policy Neighborhood Plan for the development of schools and park land.
3. Funding to prepare due diligence studies for the property will allow the City to finalize a price offer, terms and conditions that respond to existing site conditions and reduce the time to finalize purchase of the property which is a stated objective of the State.

BACKGROUND

In November 2009, the City published the *North San José Area Development Policy Neighborhoods Plan* ("Plan") document to supplement the *North San José Area Development Policy* ("NSJADP"). The Plan was approved by the North San José Neighborhoods Planning Taskforce, comprised of residents and businesses in North San José. It is intended to serve as an implementation strategy to support the NSJADP and the development of the Plan involved extensive public outreach. The latest version of the NSJADP was adopted by Council on February 28, 2012.

The Plan includes a strategy to provide public parks and recreational facilities in North San José including one or two larger community parks for both residents and employees. A portion of the Agnews Property is discussed as a preferred location for community recreation facilities in the Plan.

In 2012, SCUSD became aware that the State of California intended to sell the Agnews Property and submitted an offer to the State to acquire 54 acres of the eastern portion of the 81-acre site (see Attachment A, Campus Map). SCUSD included completed environmental clearance documents and a real estate market value appraisal with their offer. The appraisal for 54 acres of land at that time showed a fair market value of \$64,000,000. The State denied the offer and asked for \$72,000,000 and stated that the \$64,000,000 was below market value.

On August 7, 2012, the City Council adopted a resolution authorizing the City Manager to negotiate and execute a memorandum of understanding with the SCUSD setting forth the framework for a future partnership between the City and District for the possible acquisition and use of the Agnews site in North San José. The City Manager was directed to return to the City Council for approval of a joint use agreement at a later date once the final terms of the joint use agreement had been negotiated.

October 15, 2013

Subject: Partnership with SCUSD to Submit the Response to Agnews RFP

Page 3

On April 16, 2013, Council Adopted Resolution No. 76604, entitled: "A Resolution of the Council of the City of San José in Support of Assembly Bill 503 ("AB 503"). AB 503 would have authorized the Department of General Services (DGS) to transfer surplus State real property, or any portion thereof, to a local agency at a price that is less than fair market value, if the property to be transferred will be used solely for public school purposes. Subsequent to the Council's action, AB 503 was placed in suspension by the State Senate Appropriations Committee.

The April 16, 2013 Council action also directed the City Manager to initiate conversations with the State regarding the City's interest in acquiring the 27-acre portion of Agnews Property not included in SCUSD's original offer to the State for park purposes. The City Manager was also directed to discuss partnership opportunities with the County and other potential regional partners.

Following partnership discussions, the City and SCUSD jointly contacted the State and discussed purchase of the Agnews Property for use as a school and park project. A second proposed offer for the entire 81-acre Agnews Property for school and park land development was discussed with the State but the offer was denied.

In August 2013, the State posted an RFP to solicit letters of interest and offers for the disposition of the 81-acre Agnews Property. The RFP can be found at: <http://www.3500zanker.com/>

Interested buyers must submit a letter of intent in response to the RFP to the DGS by November 21, 2013. The RFP provides interested parties with studies, reports and findings about existing conditions including existing buildings, known hazardous conditions, etc. Included in the information posted by the State is a letter from the City of San José, dated April 26, 2013, which responds to Preliminary Review application number PRE13-029 by the State for the Agnews Property. (See Attachment B, Preliminary Review.)

The City and the SCUSD have been working together on a joint submittal responding to the State's RFP for the disposition of the Agnews Property since it was posted.

ANALYSIS

The City and the SCUSD seek to formalize partnership discussions in a public resolution and submit a joint letter of intent to purchase the Agnews Property in response to the State's RFP. This action is consistent with Council action on April 16, 2013, and the findings in Resolution No. 76604.

The SCUSD has prepared a public resolution for their school board's approval scheduled to be heard on October 24, 2013.

The State's RFP provides general information about the basis and process for selection. The State intends to select submittals that best balance the following objectives:

October 15, 2013

Subject: Partnership with SCUSD to Submit the Response to Agnews RFP

Page 4

- Purchase price
- Permanent job creation
- Likelihood of satisfying all conditions for closing escrow

The State has indicated that they expect to select and notify proposers of their selection results within 30 to 60 days of receiving responses. The State may invite finalists in the selection process for oral interviews with no timetable provided for that phase of the disposition process.

Interested parties must also be able to provide the following information if selected as finalists by the State:

1. A minimum deposit of one percent (1%) of the gross price deposited into an escrow account not later than five business days following delivery of the Conditional Selection of Interested Party to the selected buyer; and
2. A cooperation agreement designating one entity as the lead representative if the proposal is from a team of buyers that is composed of more than one entity; and
3. Execution of final transactional documents which are consistent with the Letter of Intent/Offer within 90 days of the State making its selection.

It is recommended that the City Manager be authorized to execute the purchase agreement and all other documents needed to conclude the transaction with the State of California if the joint proposal is selected. This action would allow the City to provide the necessary documents required to meet the State's requirements for sale of the Agnews Property by established deadlines.

The City and the SCUSD have identified funding sources to support an offer based on previous discussions with the State, including Subdivision Park Trust Fund and Construction Tax and Property Conveyance Tax Fund (City) and bond funding (SCUSD).

The City's General Plan designation for the project site is Public/Quasi Public which supports public uses such as schools, private community gathering facilities and other uses serving as important role within community. The City has stated that it would be unlikely to support a General Plan Amendment for this project site in its Preliminary Review letter. The area has been identified through the North San José Area Development Policy Neighborhoods Plan as a preferred site for potential school or regional park (30-acre) development.

In addition to recreational facilities defined in the North San José Area Development Policy Neighborhoods Plan, the City and the SCUSD intend to explore opportunities for joint use of facilities potentially including sports fields, trails, community rooms and a library. There is also an opportunity to provide a connection from the Agnews Property to the City's regional trail system to become part of the regional open space system in Santa Clara County.

As part of any proposed land use entitlement actions, the City must conduct an analysis of potential environmental impacts under the California Environmental Quality Act ("CEQA"). The City is also performing further testing and data collections related to site issues identified in

studies posted on the State's website. An appropriation action is requested in this memorandum to provide funding for activities related to due diligence, to pay for environmental studies and to pay a consultant to assist in packaging the joint RFP submittal.

Site Opportunities and Issues

1. The project is within the NSJADP area and supporting implementation strategy. According to NSJADP Neighborhoods Plan ("Plan"), the City aims to provide approximately 77 acres of public parks and recreational facilities in North San José including a center park/plaza that acts as a focal point for the employment and residential communities, one or two larger community parks equaling approximately 30 to 40 acres, trails and trail connections, recreational facilities, sports fields and a mixture of passive and active open space area for both residents and employees. The major recreational amenities should include community center, aquatics center and sports fields. A portion of the Agnews Property is considered as a preferred location for community recreation facilities in the Plan. The site provides a key opportunity to develop a community park and other recreational facilities in the North San José area.
2. Hazardous materials – The Agnews Property has been developed for over 100 years and has a history of hazardous materials use and storage. A Phase I Environmental Site Assessment performed by SCUSD in 2010 noted potential hazardous materials issues including above ground and underground storage tanks, former electrical transformers that contained PCBs and agricultural pesticide application. Asbestos containing building materials and lead based paint are also suspected in some of the existing buildings. The City needs to perform a Phase II Environmental Investigation on the proposed park site to evaluate the potential presence of hazardous materials that would present a health risk to future park users or an environmental liability to the City. The Phase II would include testing results and provide recommendations for and costs of any associated cleanup. Staff will factor the costs associated with the environmental risks of the purchase into the final bid proposal for the property submitted to the State.
3. Historic resources –The Agnews Property was formerly the home of the Agnews Developmental Center, which dates to the early 1930's. Based on a Historic Resource Assessment ("HRA") from 2006, a portion of the Property may be eligible for State and National Registers as a potential historic district. This area, which includes the semi-circular area bounded by Cabrillo Street, Balboa Avenue, and Cortez Street, as well as the area on either side of Anza Road, contains eight structures and eight landscape features that contribute to the potential historic district. The features with historic significance are located on land to be owned by the SCUSD.

The existing buildings located on the portion of the site to be developed as parks, trails and open space were not considered historic in the HRA. The City is in the process of the environmental review. The environmental document is anticipated to become an addendum to the North San José EIR. If the environmental review finds that the park could adversely affect the adjoining historic resources, the City could use the analysis in the adopted EIR as a basis for determining impacts.

4. Accidental Toxic Releases from Nearby Facilities/BLEVE – OLS-Energy reports a large quantity of anhydrous ammonia and VTA Cerone located at 3900 Zanker Road reports a large quantity of liquid propane, within radius of the Agnews Property. According to the SCUSD EIR, the proposed school site is outside of a 1/4-mile radius for an ammonia tank at the OLS-Energy facility located at 3800 Cisco Way. The proposed park site is located within the 1/4-mile radius of the ammonia tank impact area. An environmental evaluation has been conducted for the school site and identified two potential significant impacts from these facilities related to “Boiling Liquid Expanding Vapor Explosions” (BLEVE), which are considered Low Probability High Consequence release (see Attachment C - Risicare Letter)

The report stated that the likelihood for a catastrophic BLEVE to occur that would have a significant impact on the proposed school site is considered to be improbable. In consideration of the future joint use with the school, the City is in the process of having the same consultant prepare an environmental evaluation on the park site related to possible BLEVE events as part of its due diligence study.

5. Deed Restriction – There is a Deed Restriction on the portion of the Agnews Property the City is interested in purchasing. The parties to the deed restriction are the State of California and Cisco Systems, Inc. The Deed Restrictions limit certain uses of the property. The City has communicated with Cisco about the future school and park land development at this location. Cisco has expressed support for the City’s proposed uses of the deed restricted property adjacent to their campus.
6. Biological Resources – There are a significant number of mature trees located on the site. Depending upon the ultimate site plan for the project, some of the trees may be retained; however, a substantial number of trees may require removal. The SCUSD’s EIR addresses the impacts to nesting raptors, other special wildlife species and trees. The project will participate in the Santa Clara Habitat Conservation Plan mitigation program, as necessary.

Further due diligence studies related to the above site issues will validate that the site is suitable for parks purposes prior to final acquisition. In addition, the City will pay a consultant to assist in packaging the joint RFP submittal. Therefore, funding of \$150,000 is recommended to be allocated for these purposes.

COST SUMMARY/IMPLICATIONS

This memorandum includes a recommendation to allocate \$150,000 from the Subdivision Park Trust Fund to perform due diligence studies related to the Agnews property and to hire a consultant to prepare the RFP documents. Should the State select the bid submitted by the City and SCUSD—and if the preliminary due diligence studies are favorable—sufficient funding exists in Subdivision Park Trust Fund and the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 to move forward with the land purchase. Staff would subsequently return to Council with a recommended budget action to appropriate necessary funds and describe the operating and maintenance impacts to the General Fund of the planned

City-operated recreation facilities, which would likely exceed \$100,000 per year and require City Council certification.

BUDGET REFERENCE

The table below identifies the fund and appropriations recommended to be amended as part of this memorandum.

Fund #	Appn #	Appn. Name	Current Appn	Recommended Budget Action	2013-2014 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
375	8845	Future PDO / PIO Projects Reserve	\$34,056,152	-\$150,000	V - 543	10/08/2013 Ord. No. 29320
375	NEW	Agnews Property Preliminary Studies	N/A	\$150,000	N/A	N/A
Total Fund 375			\$34,056,152	\$0		

EVALUATION AND FOLLOW-UP

Bids are due on November 21, 2013, and the State Department of General Services is expected to select the top ranked submittal within 30 to 60 days.

Staff will provide an informational memo to Council as soon as the State notifies respondents of information about selection results, oral interviews, next steps, a timeline for disposition of the Agnews Property and fiscal impacts.

POLICY ALTERNATIVES

Alternative #1: Do nothing

Pros: The City would not spend any public funds and City staff would not need to spend any time working on the RFP submittal.

Cons: By denying the joint purchase proposal, the City will lose an opportunity to acquire the land identified as the preferred location for community recreation facilities under the North San José Area Development Policy Neighborhoods Plan for future park land development.

Reason for not recommending: There are very few good-size (30-acre) land parcels left for purchase that are consistent with the General Plan for Public/Quasi Public use and the City might miss an opportunity to move forward with a park plan that aligns with the NSJ Policy Area planning documents.

Alternative #2: Buy another site

Pros: The City might be able to purchase a site without hazardous materials and historic resources.

Cons: The clean site may attract more competitors and cost more. The land use designation of the site may not be in compliance with the City's General Plan, zoning and NSJ Area Development Policy causing the City to spend additional resources to comply.

Reason for not recommending: The Agnews Property is one of two preferred locations identified in the NSJ Area Development Policy Neighborhoods Plan for community recreation facilities. The other site located at the south west corner of Tasman and Zanker Road is no longer available for development. This will be the only chance for the City to acquire the park land as planned without a General Plan Amendment and rezoning.

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1:** Requires Council action on the use of public funds equal to \$1,000,000 or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The SJUSD Board is scheduled to approve a resolution at their public meeting on October 24, 2013, regarding actions related to the RFP response. A community meeting is scheduled for November 6, 2013, to be held at Don Callejon School. The City will mail the outreach flyer residents in North San José in accordance with the City's community outreach policy. The SCUSD will be notifying parents about the meeting according to their community outreach policy. The notice will also be advertised in the San José Mercury News.

This memorandum does not directly meet the above criterion, however, it will be posted on the City's website for the November 5, 2013, City Council Agenda.

COORDINATION

This memorandum has been coordinated with the Department of Public Works, Department of Planning, Building and Code Enforcement, the City Attorney's Office, the Office of Economic Development and the Environmental Services Department.

HONORABLE MAYOR AND CITY COUNCIL

October 15, 2013

Subject: Partnership with SCUSD to Submit the Response to Agnews RFP

Page 9

FISCAL/POLICY ALIGNMENT


The proposed project aligns with the adoption of the Greenprint 2009 Update by City Council, the City's General Plan and the NSJ Area Development Policy, including the NSJ neighborhoods Plan, by providing need for park land.

CEQA

Environmental status granted by the Planning, Building and Code Enforcement Department.
Not a project, File No. PP1-069(a), staff reports.

/s/

JULIE EDMONDS-MARES
Director of Parks, Recreation and
Neighborhood Services


JENNIFER A. MAGUIRE
Budget Director

For questions please contact Matt Cano, Deputy Director, at (408) 535-3580.

Attachment A: Campus Map
Attachment B: Preliminary Review

Council Date: 11-05-13

ATTACHMENT A: CAMPUS MAP

BUILDING LEGEND

- | | |
|----|---|
| 1 | C.T.A.S. MODULAR |
| 2 | C.T.A.S. MODULAR |
| 3 | C.T.A.S. MODULAR |
| 4 | ASSISTIVE TECHNOLOGY |
| 5 | ADAPTIVE EQUIPMENT CENTER |
| 6 | BOILER PLANT |
| 7 | C.T.A.S. MODULAR (ADULT SERVICES) |
| 8 | C.T.A.S. MODULAR (ADULT SERVICES) |
| 9 | C.T.A.S. MODULAR (ADULT SERVICES) |
| 10 | CLOTHING CENTER / CLOTHING WAREHOUSE |
| 11 | PROTESTANT CHAPEL |
| 12 | JEWISH CHAPEL / VOLUNTEER SERVICES |
| 13 | CATHOLIC CHAPEL |
| 14 | C.T.A.S. MODULAR |
| 15 | C.T.A.S. MODULAR |
| 16 | C.T.A.S. MODULAR |
| 17 | AUTO COMPOUND PARKING |
| 18 | AUTO COMPOUND OFFICE & SHOP |
| 19 | CARPENTER SHOP / LANDSCAPE SHOP / |
| 20 | P.O. WAREHOUSE & HARRIOT'S STORAGE |
| 21 | PLANT OPERATIONS FIELD OFFICES |
| 22 | AUTO COMPOUND GAS STATION / PARKING |
| 23 | C.T.A.S. MODULAR |
| 24 | C.T.A.S. MODULAR |
| 25 | C.T.A.S. MODULAR |
| 26 | C.T.A.S. MODULAR |
| 27 | MAIN KITCHEN / EAST SIDE CAFE / REACH PRGM. |
| 28 | MULTI-PURPOSE BUILDING |
| 29 | PROGRAM 5 (RES. 65,67,68,71,73,75,77 & 78) |
| 30 | PROGRAM 9 (RES. 64,66,68,70,72,74,76 & 78) |
| 31 | PROGRAM 3 (RES. 48,50,52,54,56,58,60 & 62) |
| 32 | RECEIVING AND TREATMENT (RAPAPORT BUILDING) |
| 33 | ADMINISTRATION |
| 34 | STAFF RESIDENCE |
| 35 | STAFF RESIDENCE |
| 36 | EMPLOYEE APARTMENTS |
| 37 | EMPLOYEE APARTMENTS |
| 38 | EMPLOYEE APARTMENTS GARAGES |
| 39 | EMPLOYEE APARTMENTS GARAGES |
| 40 | EMPLOYEE APARTMENTS LAUNDRY |
| 41 | WELL AND BOOSTER PUMP HOUSE |
| 42 | WATER SETTLING TANK BUILDING |
| 43 | EMERGENCY GENERATOR BUILDING |
| 44 | WATER TOWER |
| 45 | DIESEL STORAGE TANK |
| 46 | OXFORD TANK |

BUILDING NO. 54 (RAPAPORT BUILDING)
BASEMENT: CENTRAL SUPPLY / STORAGE ROOMS
1ST. FLOOR: RES. 181, 186, 282, 285, 382 / CLINICS, LAB.
X-RAY, PHARMACY, OFFICES, SCHOOLS,...

2ND. FLOOR: RES. 191, 292, 587, 288,
PM & R (PHYSICAL MEDICINE & REHAB)
180 (STAFF TRAINING & DEVELOPMENT)
SCHOOLS, OFFICES AND ETC.

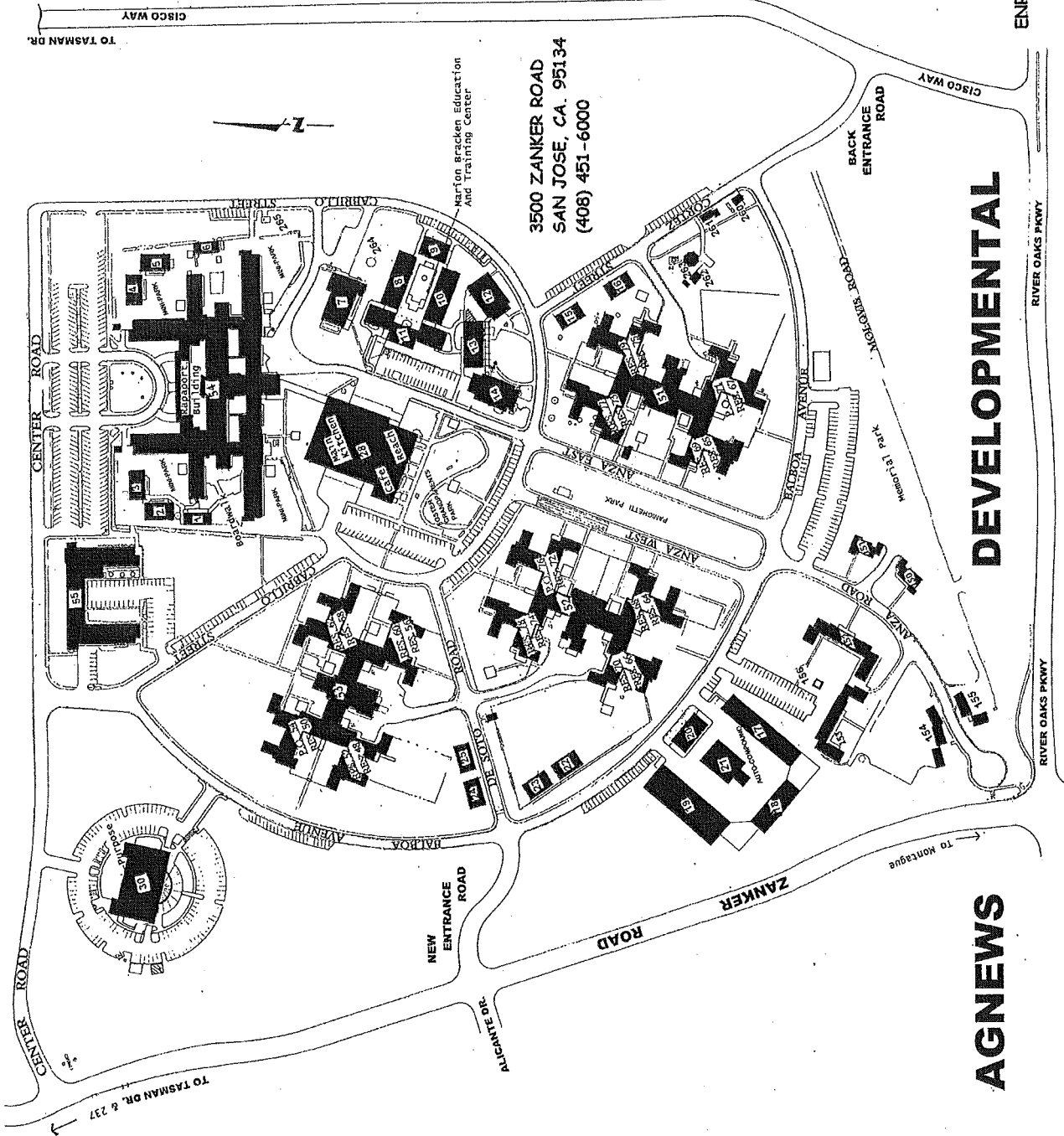
3RD. FLOOR: RES. 098 AND EEST



CENTER

ENRICHING LIVES, FOSTERING INDEPENDENCE.

2002



DEVELOPMENTAL

AGNEWS

3500 ZANKER ROAD
SAN JOSE, CA. 95134
(408) 451-6000



Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

April 26, 2013

Mr. Gerald McLaughlin
State of California Department of General Services
707 3rd Street, Suite 5
West Sacramento, California 95605

RE: PRE13-029 City of San Jose Preliminary Review for the Agnews East Campus

Dear Mr. McLaughlin:

I appreciate having had the opportunity to discuss with you and your team your objectives for submitting a Preliminary Review Application for the Agnews East Campus site (3500 Zanker Road, File No. PRE13-029). The letter is intended to provide you with an initial response regarding the potential entitlement process for the Agnews East Campus, including environmental mitigation measures. The City's response is based in part upon four potential development schemes that you provided as part of your Preliminary Review application. After you review this letter, please let me know if you have further questions.

General Plan / Policy Considerations

The General Plan designation for the site is Public/Quasi Public, which supports public uses, such as schools, but does not support commercial development. The City's General Plan includes policies promoting the preservation of Public/Quasi Public lands for schools, private community gathering facilities and other uses which serve an important role within the community. In order for a property owner/developer to pursue any type of commercial (e.g., office, retail) development, they would need to request a General Plan Amendment and proceed through a discretionary process subject to City Council approval. Because this area has been identified through the North San Jose neighborhoods community based planning process as a preferred site for school and/or (30-acre) community park development, and because the Envision San Jose 2040 General Plan includes policies supporting the preservation of Public/Quasi-Public lands, staff will recommend that all or a significant portion of the site be maintained with a Public/Quasi-Public designation.

Envision San Jose 2040 General Plan excerpts:

Policy LU-1.8

Preserve existing Public / Quasi-Public lands in order to maintain an inventory of sites suitable for Private Community Gathering Facilities, particularly within the Residential Neighborhoods, Urban Villages and commercial areas, and to reduce the potential conversion of employment lands to non-employment use.

Public/Quasi-Public

Density: FAR N/A This category is used to designate public land uses, including schools, colleges, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices and airports. Joint development projects which include public and private participation - such as a jointly administered public/private research institute or an integrated convention center/hotel/restaurant complex - are allowed. This category is also used to designate lands used by some private entities, including private schools, daycare centers, hospitals, public utilities, and the facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications facilities that are consistent in character with established public land uses. Private community gathering facilities, including those used for religious assembly or other comparable assembly activity, are also appropriate on lands with this designation. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular Public/Quasi-Public use developed on the site.

The project site is within the North San Jose Area Development Policy (NSJADP). This policy provides for the potential development of up to 26.7 million square feet of industrial office space, up to 1.7 million square feet of local serving retail space, and up to 1 million square feet of regional retail space, provided that the underlying General Plan designation supports such uses. Because the project site is within the NSJADP, future development proposals, including any proposed General Plan Amendment, would be reviewed for consistency with the North San Jose Neighborhoods Plan and eventual development proposals would also be reviewed for consistency with the North San Jose Urban Design Guidelines as well as the City's Commercial and Industrial Design Guidelines as applicable.

The North San Jose Neighborhoods Plan (Plan) was developed through a collaborative process including neighborhood residents, NSJ business and property owners, and representatives of the four school districts with jurisdiction within the NSJADP. The Plan identifies the Agnews East Campus site as a potential site for a school and/or for a community park of up to 30 acres. The Plan indicates that the site is one of two preferred school sites and would be "ideal for the fifteen acres required for a K-8 school." Subsequent to the development of the Neighborhoods Plan, the Santa Clara Unified School District developed a plan to build a 59-acre K-12 school on the Agnews East Campus site. The City of San Jose has determined that development of such a school would be consistent with the City's General Plan as well as the NSJADP and North San Jose Neighborhoods Plan. Specific to the development of a community park, the NSJ Neighborhoods Plan states that:

A portion of the Agnews site should be considered as a preferred location for community recreation facilities to include:

- Four 225' x 360' soccer fields with a cricket field overlay
- Four to six tennis courts
- Restroom/concession building
- Picnic facilities
- Parking for approximately 240 cars.

The site is currently zoned as IP Industrial Park Zoning District. As noted above, any significant redevelopment of the site will need to conform to the General Plan and so a General Plan Amendment would be necessary for industrial park development even if it conforms to the zoning regulations. It would be necessary to rezone the property in order to pursue development with a significant retail component as the IP District allows only a small amount of "supporting commercial" retail uses within the context of a large industrial park development. Schools are not a permitted use within the IP District, so development of a school would require rezoning of the property or for the governing school board to make a determination to override local zoning regulations.

Environmental Considerations

As part of any proposed land use entitlement actions (e.g., General Plan amendment, rezoning, development permits) the City will conduct an analysis of potential environmental impacts as required for compliance with the California Environmental Quality Act (CEQA). As part of that process, the applicant will need to submit an Initial Study or more likely an Administrative Draft Environmental Impact Report, including with either document technical reports to address traffic, historic resources, biological resources and other areas potentially subject to environmental impacts. Prior to receiving such technical documents, feedback from staff should be considered preliminary and subject to revision once additional information becomes available.

Transportation

The North San Jose Area Development Policy EIR (<http://www.sanjoseca.gov/index.aspx?nid=2119>) provides program level and project level environmental analysis for potential traffic (along with noise, and air quality) impacts as required by CEQA for the development of up to 26.7 million square feet of industrial office space, up to 1.7 million square feet of local serving retail space, and up to 1 million square feet of regional retail space. If the subject property is developed with industrial office or commercial uses, transportation impacts would be addressed through the NSJADP EIR and mitigation of those impacts through payment of the NSJADP Traffic Impact Fee (TIF). The TIF automatically increases over time and currently is \$14,441 per peak hour trip. The City Council has at some points created an incentive program to defer payment of a portion of this fee for key economic development projects.

Development of a school or other public facility not addressed through the NSJADP will require additional traffic analysis. The Santa Clara Unified School District (SCUSD) recently prepared an Environmental Impact Report (<http://www.santaclarausd.org/files/filesystem/1%20-%20Agnews%20East%20School%20Site%20Project%20DEIR%20October%202011.pdf>) analyzing the potential impacts for the development of a proposed 2,800 student K-12 campus and determined that such a development would result in significant unavoidable impacts to transportation facilities by impacting SR 237 between North First Street and Zanker Road.

Greenhouse Gas Emissions

The Envision San Jose 2040 General Plan incorporates a Greenhouse Gas Reduction Strategy so that the General Plan EIR addresses the CEQA requirements for analysis of potential greenhouse gas emission impacts related to implementation of the City's General Plan. Because General Plan Amendment applications have the potential to change the greenhouse gas emissions related to build-out of the General Plan, the CEQA analysis for an Amendment will need to take this into consideration. Because the contemplated commercial development is covered within the NSJADP, staff anticipates being able to determine that such an Amendment would not result in any significant changes to the City's long-term traffic conditions and related greenhouse gas emissions.

Biological Resources

While the NSJADP EIR covers the general impacts of tree replacement that would occur with implementation of the Policy, it does not address specific potential impacts associated with individual properties. As discussed in the SCUSD EIR, development of the project site could result in significant impacts to biological resources, including mature trees, nesting raptors, Western Burrowing Owls and bats. Future development of the property would however be expected to mitigate potential impacts to each of these resources to a less than significant level, with the exception of a significant unavoidable impact due to loss of mature trees.

All four of the proposed development schemes indicate redevelopment and coverage of a majority of the site area with either new buildings or paved parking lots. Within the context of each scheme, it should be possible to preserve some portion of the mature trees located on the site, through creative streetscape design, careful design of surface parking areas and/or careful placement of landscape areas so as to maximize the preservation of existing trees. Planning staff anticipates working with a project developer (for an institutional, commercial or industrial development project) to identify ways to preserve as many trees as possible while also accomplishing the project objectives.

Future development of the site will also be conditioned to include mitigation measures (e.g., pre-construction surveys, limitations upon construction schedules, fencing off of buffer areas, etc.) to avoid significant impacts to any species of concern located on the site. Future development of the site will also be subject to the requirements of the Santa Clara Valley Habitat Plan, including payment of a Nitrogen Deposition Fee (for net new trips generated by the project) and potential payment of a per-acre fee for any loss of Western Burrowing Owl habitat lands.

Cultural Resources

Based on the historic nature of the project site including the presence of buildings eligible for listing on the State and National Registers of Historic Resources, future development of the site will likely result in a significant unavoidable impact to cultural resources. The placement and architectural design of new buildings will be expected however to be designed so as to minimize this impact to the extent feasible. Specifically, new development will be expected to maintain a portion of the historic street layout and building orientation along with elements of the historic buildings along with historic display information in keeping with similar preservation actions implemented elsewhere for sites with comparable historic value. A more flexible than standard

approach to street design and architectural treatment should be considered in order to maximize preservation of these elements.

Planning staff will request further exploration of strategies for preservation or partial preservation of structures on the site beyond the scope of the Reuse Feasibility Study previously conducted for the subject site. If, as indicated in the Study, it is concluded that preservation of buildings on site is not feasible, the City may require that the buildings be offered for relocation (with monetary assistance for interested parties) and be made available for salvage in the case that they are not relocated. However, staff anticipates that some form of on-site preservation is feasible for all four proposed development schemes, and that the incorporation of these historic resources will be explored further through the development review process.

Utilities and Service System

The Envision San Jose 2040 General Plan, NSJADP EIR and NSJADP EIR Water Supply Assessment, and the San Jose Municipal Water 2010 Urban Water Management Plan identify the need for additional utilities and service systems to meet the long-term water supply demand for future development in North San Jose. The Agnews East Campus is considered a candidate site for two wells and a reservoir to address this need. Collectively it is estimated that these facilities would require up to 1.1 acres of land area. Additionally, the site is adjacent to the City's recycled water pipeline and future development will be required to connect new development to the pipeline and extend a main through the development so as to make use of recycled water for all non-potable uses.

Other Resources

Based upon a review of the NSJADP and SCUSD EIRs, staff does not anticipate significant unavoidable impacts to other resources, including potential impacts related to land use, hazardous materials, noise, air quality, energy, geology and soils, hydrology and water quality, etc. Future development of the site may result in significant impacts as discussed above to transportation, greenhouse gas emissions, biological resources and cultural resources, with the latter two likely in all development scenarios. The project would likely have a cumulative significant impact upon biological and cultural resources as well.

Entitlement Process

To proceed with any of the alternatives presented, a General Plan Amendment would be required. (Only if the site were developed entirely for Public/Quasi-Public uses would a General Plan Amendment not be needed). In addition, an Environmental Clearance application likely consisting of an Environmental Impact Report prepared by a qualified consultant would be also be required. General Plan Amendments are considered by the Planning Commission for a recommendation and then City Council for approval or denial. Subsequent Site Development Permits for building and site design would also be required, and are subject to a Director's Hearing. Director's Hearing decisions can be appealed to the Planning Commission. Specific Use Permits or Conditional Use Permits may also be required depending upon the type of businesses/uses proposed on the site.

Conclusion

All four of the proposed Development Schemes would require a General Plan Amendment. Staff is unlikely to support such an amendment given General Plan and North San Jose policies which support preservation of the entire site for Public/Quasi-Public use. Any development of the site would likely result in significant unavoidable impacts to mature trees and historic resources. Staff will work with the project developer to modify the design of proposed development to minimize impacts to these resources to the extent feasible by incorporating open space areas, historic street pattern elements, historic structures or portions of historic structures and historic displays to mitigate such impacts. Development of the site could also result in significant impacts to transportation or Western Burrowing Owls, but such impacts can largely be mitigated through use of mitigation measures incorporated within the North San Jose Area Development policy and/or the Santa Clara Valley Habitat Plan. Public/Quasi-Public use of the site however could result in a significant transportation impact that is not addressed through the NSJADP.

Please feel free to contact me with any questions or if you would like to set up a meeting to discuss the project further at andrew.crabtree@sanjoseca.gov or (408) 535-7893.

Thank you,


Andrew Crabtree